

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SMITH AND NEPHEW, INC., §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. 2:07-cv-335-TJW-CE
§
ARTHREX, INC., §
§
Defendant. §
§

FINAL JUDGMENT

The parties to this case selected a jury on February 1, 2010. The trial commenced on February 8, 2010 and the jury reached its verdict on February 12, 2010. Further, the Court held a full evidentiary hearing on the issue of a permanent injunction on March 29, 2010. In accordance with the jury's verdict, the Court renders the following judgment:

The jury having determined that defendant Arthrex, Inc. ("Arthrex") infringed claim 8 of U.S. Patent No. 5,645,588 ("the '588 patent"); the jury having determined that Arthrex induced the infringement of asserted claim 8; the jury having failed to find that asserted claim 8 is invalid; it is ORDERED, ADJUDGED, AND DECREED that the plaintiff, Smith & Nephew, Inc. ("S&N"), have and recover from Arthrex Four Million, Seven Hundred Thirteen Thousand Dollars (\$4,713,000) in actual damages. The Court awards an additional Four Hundred Seventy Two Thousand, Six Hundred Sixty Seven Dollars (\$472,667) in pre-judgment interest. In calculating the pre-judgment interest, the Court deems that the actual damages award is what would have been payable to Plaintiff on the date of first infringement, October 2006. The Court calculates the pre-judgment interest rate consistent with the average ninety (90) day commercial paper rate, as established by the Federal Reserve Board, and uses this rate compounded on a

yearly basis for the time period from October 2006 to the present date to calculate the pre-judgment interest award. Thus, the total awarded is Five Million, One Hundred Eighty Five Thousand, Six Hundred Sixty Seven Dollars (\$5,185,667). The Plaintiff is the prevailing party in this litigation and the Court awards costs to the Plaintiff as the prevailing party. The judgment shall bear interest at the lawful federal rate.

The Court will defer ruling on the issue of a permanent injunction until the post-judgment motions are complete.

All relief not expressly granted is DENIED. This is the FINAL JUDGMENT.

IT IS SO ORDERED.

SIGNED this 30th day of March, 2010.



T. JOHN WARD
UNITED STATES DISTRICT JUDGE